Anticipated acquisition by The Original Bowling Company Ltd of Bowlplex Ltd

ME/6528/15

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 17 August 2015.

Please note that [✂] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. The Original Bowling Company Ltd (**TOBC**) has agreed to acquire Bowlplex Ltd (**Bowlplex**) (the **Merger**). TOBC and Bowlplex are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) considers that the Parties will cease to be distinct as a result of the Merger, that the share of supply test is met and that accordingly arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

3. The Parties overlap in the supply of tenpin bowling facilities by national branded operators in the UK. The CMA assessed the Merger against a product frame of reference for the supply of tenpin bowling facilities, which includes both national branded operators and independent/boutique operators. In relation to the geographic frame of reference, the CMA assessed the impact of the Merger on a local basis, with catchment areas around the Parties' sites capturing 80% of customers used to identify the local areas in which the Parties compete. The CMA identified 16 local areas where the Parties' overlap on this basis.

4. The CMA considered a broad range of evidence in its competitive assessment of each local area to determine the extent to which the Parties compete closely and the significance of the competitive constraints that the merged entity would face post-Merger, including:

(a) Evidence from a customer survey commissioned by the Parties which measured diversion between the Parties, other tenpin bowling operators and other leisure activities;

(b) The extent of the geographic overlap between the Parties' sites (based both on each site's catchment area and actual customer location) to indicate the degree of current competition between the Parties' sites;

(c) The strength of competition remaining post-Merger; and

(d) The incentive of the merged entity to increase prices post-Merger, as estimated by a calculation of the gross upward pricing pressure facing the Parties.

5. The CMA considers that this evidence indicates that the Parties compete closely in six local areas (Bristol, Bracknell, Cardiff, Dudley, Leeds/Castleford and Glasgow), and that in these local areas the competitive constraint between the Parties that would be lost as a result of the Merger would be substantial.

6. The evidence also indicated that in these local areas there would be insufficient competition remaining post-Merger from alternative tenpin bowling operators to competitively constrain the merged entity, and that expansion or new entry could not be relied on to replace that constraint.

7. The CMA therefore considers that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal effects in these six local overlap areas.

8. In the remaining local overlap areas, the CMA found that there was no realistic prospect of an SLC, because the Parties' sites do not closely compete and in that context there will be sufficient competition remaining post-Merger.

9. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). TOBC has until 24 August 2015 to offer an undertaking that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger to phase 2 pursuant to sections 33(1) and 34ZA(2) of the Act.

ASSESSMENT

Parties

10. TOBC is a UK leisure operator focused on the provision of tenpin bowling, food, bar and amusement facilities. The UK turnover of TOBC in the financial year ending 30 September 2014 was £78.7 million. TOBC has 44 sites across the UK.

11. Bowlplex is a UK leisure operator of tenpin bowling, food, bar, and games facilities. The UK turnover of Bowlplex in the financial year ending 27 April 2014 was £23.9 million. Bowlplex has 17 sites across the UK.

Transaction

12. TOBC has agreed to acquire the entire issued share capital of Bowlplex.

Jurisdiction

13. As a result of the Merger, the enterprises of TOBC and Bowlplex will cease to be distinct.

14. The Parties overlap in the supply of tenpin bowling facilities, with a combined share of supply of [20–30]% (increment [5–10]%) by revenue in the UK.[1] The CMA therefore considers that the share of supply test in section 23 of the Act is met.

15. Accordingly, the CMA believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

16. The initial period for consideration of the Merger under section 34ZA(3) of the Act commenced on 23 June 2015 and the 40 working day statutory deadline for the CMA to announce its decision is therefore 17 August 2015.

Counterfactual

17. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers, the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where,

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[1] TOBC submissions.

based on the evidence available to it, it considers that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions as between the merging parties.[2]

18. In this case, there is no evidence supporting a different counterfactual, and TOBC and third parties have not put forward arguments in this respect. Therefore, the CMA considers the prevailing conditions of competition to be the relevant counterfactual.

Frame of reference

19. The CMA considers that market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.[3]

Product scope

20. The Parties overlap in the supply of tenpin bowling facilities by national branded operators.

21. The UK or EU competition authorities have not reviewed the activities of bowling operators in the past. TOBC submitted that possible frames of reference could include:

(a) Ten-pin bowling, segmented according to the format and customer focus of the operator (ie segmented to distinguish between national branded operators and independent/boutique operators);

(b) All tenpin bowling; or

(c) Ten-pin bowling *plus* alternative leisure activities.

22. In accordance with its usual practice, as a starting point for its assessment, the CMA considered the narrowest product frame of reference in which the

[2] *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).
[3] *Merger Assessment Guidelines*, paragraph 5.2.2.

Parties have overlapping activities (ie the supply of tenpin bowling facilities by national branded operators), and then considered whether the product frame of reference could be widened on the basis of demand-side substitution.[4]

Independent/boutique operators

23. TOBC submitted that it was not appropriate to segment the supply of tenpin bowling facilities to distinguish between independent/boutique operators and national branded operators. TOBC submitted that branding was not a key driver of customer choice, with other factors such as proximity being more important.

24. Evidence from the Parties' internal documents and third parties suggests that tenpin bowling operators can target different customer segments, such as families, young adults, corporate customers, or league bowlers. For example, national branded operators target a broad group of customers including families and young people, while boutique operators may target young people/professionals.

25. Therefore, tenpin bowling operators can be differentiated in terms of the number of lanes (independent/boutique operators often have significantly fewer lanes) and the nature of ancillary offerings such as food and drink (national branded operators have a relatively similar offering, whereas independent/boutique operators vary).

26. However, evidence from third parties indicated that while tenpin bowling operators may focus more strongly on some types of customers, all will seek to attract a range of different customers to maximise their customer base and optimise the use of their capacity at different times. The CMA also notes that all tenpin bowling operators offer the same core service (ie tenpin bowling facilities) which suggests that they are, to a significant extent, functionally substitutable.

27. The CMA has therefore included the supply of tenpin bowling facilities by independent/boutique operators in the product frame of reference. However, the CMA also recognises that the service offered by some independent and boutique operators can be significantly differentiated from national branded operators, and the constraint that they impose on national branded operators will diminish as differentiation increases. Therefore, the CMA has taken any differences between tenpin bowling operators (particularly in terms of capacity and customer focus) into account in the competitive assessment.

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[4] *Merger Assessment Guidelines*, paragraph 5.2.2.

Alternative leisure activities

28. TOBC submitted that the Parties compete with other providers of leisure activities, emphasising in particular the constraint imposed by cinemas. In this regard, TOBC placed significant weight on a customer survey that was commissioned by the Parties relying on previous survey design by UK competition authorities, but in relation to which the CMA was not consulted. Whilst, in a voluntary merger control regime, it is not obligatory for merging parties to consult the CMA in relation to survey design, not doing so increases the risk that there may be design flaws that limit the probative value of the evidence. The CMA's concerns with the Parties' survey are considered below.

29. In addition, TOBC argued that the product frame of reference should be wider than tenpin bowling as a result of the following factors:

    (a) Ten-pin bowling shares similar characteristics with other activities in the wider leisure market;

    (b) The Parties and TOBC in particular monitor and benchmark their performance and pricing against other leisure activities, in particular cinemas (and not tenpin bowling);

    (c) The entry of cinemas or opening of leisure centres has an impact on the Parties' revenues, and TOBC has reacted to entry from cinemas close to their sites.

30. The CMA addresses each of these arguments in support of a wider frame of reference below.

Customer survey

31. TOBC commissioned a third party to undertake a telephone survey of TOBC and Bowlplex customers in seven overlap areas (Birmingham, Bracknell/Camberley, Castleford/Leeds, Dudley/Wolverhampton, Bristol, Glasgow, Cardiff). TOBC argued that the results of this survey supported the proposition that tenpin bowling competes with other leisure activities. In particular, TOBC noted that the survey results show that most customers would opt for non-tenpin bowling options instead of an alternative tenpin bowling alley if their local tenpin bowling alley were closed or if prices increased, with cinemas and meals out representing a particularly strong competitive constraint on tenpin bowling.

32. In addition, TOBC argued that the survey tended to overstate the diversion to other tenpin bowling venues because it is a survey of all customers, rather than just those who would react to a price increase (ie marginal customers). In

particular, TOBC argued that the survey contains a subset of keen bowlers who might not respond to price increases, because they value convenience of location over price, but who would be prepared to seek out an alternative tenpin bowling alley in the event of a site closure as demonstrated by the fact that the diversion to other bowling venues increased for higher frequency bowling customers.

33. The CMA recognises that it is possible that the behaviour of marginal customers may differ from that of other customers. However, in this case, on the evidence available, it is not possible to ascertain whether such a difference exists or, if it does, whether it can be expected to operate in the way suggested by TOBC. In particular, the analysis submitted by TOBC shows that high-frequency bowlers are more likely to divert to other tenpin bowling venues, but it does not show that these customers are less likely to respond to a price increase. There is no clear evidence to support the view that such customers can be expected to value convenience of location above all other considerations. The CMA considers that it would be equally reasonable to assume that, because these customers go tenpin bowling more often, they might be more attentive to price and the quality of the premises and more aware of their alternatives, and, as such, that they may be more likely to respond to a price increase or a deterioration in quality. For this reason, the CMA does not accept TOBC's submission that the survey is likely to overstate diversion to other tenpin bowling centres.

34. Finally, as noted above in paragraph 28, the CMA has identified separate issues with the sampling methodology and questionnaire design, and some of these issues suggest that the diversion to other tenpin bowling options may be understated while diversion to other leisure activities, including cinemas, may be overstated.

- *Sampling methodology*

35. TOBC explained that the survey sample included online booking, telephone booking and walk-in customers for whom the Parties had telephone numbers.

36. Based on the sample information provided to the CMA by TOBC, the CMA considers that walk-in customers are likely to be under-represented in the survey sample (they are not included at all in the Bowlplex sample and are under-represented in each TOBC site). The survey results do not identify the method of booking used by respondents, so it is not possible to test whether this sampling issue creates a bias in survey results. Bowlplex has also explained that customers who have booked in advance on at least one occasion will also turn up without booking on other occasions. This might

imply that the sample is more representative than it appears, but the CMA cannot confirm this on the evidence available.

- *Questionnaire design*

37. In relation to the design of the survey questionnaire, the CMA has identified two significant issues.

38. First, at question 14 of the survey – two questions before the question on what a customer would have done if the tenpin bowling alley they had been planning to attend was closed (**the forced diversion question**) – the interviewer asked the respondent what other options he/she was also considering when he/she was deciding what to do on that occasion, with the interviewer reading out a list of other leisure activities that the respondent may pick from (**the alternative leisure options question**). The CMA is concerned that presenting respondents with a list of alternatives at that particular stage in the questionnaire (shortly before the forced diversion question), and not reading out these alternatives in a random order, introduced the following bias risks:

(a) The alternative leisure options question may have conditioned respondents to think about a number of leisure activities ahead of the diversion question, potentially biasing the diversion results.

(b) The alternative leisure options question may have biased respondents toward the alternatives identified first in the list (ie cinemas, meal out, pub/drinks).

39. While the CMA understands that the alternative leisure options question was intended to compensate for the possible risk of a framing bias towards tenpin bowling, the positioning of the question prior to the diversion question and the non-randomised read out of the other leisure options may have overcompensated for any risk.

40. Secondly, the sentence introducing the forced diversion question – 'We'd like to understand the alternatives that you might have considered on that occasion' – frames the diversion question in a way that leads respondents to think about their consideration set (ie all of their alternatives) rather than their second choice option, which is what the diversion question should be seeking to elicit. The CMA is concerned that in this case it may have compounded the conditioning effect created by the alternative leisure options question.

- *Conclusion on the survey evidence*

41. The CMA therefore considers that diversion to other tenpin bowling operators is probably understated (including as between the Parties), while diversion to the alternative leisure options (in particular cinemas) identified first in the list relating to the alternative leisure options question is probably overstated.

42. The CMA further notes that, even with the likely understating of diversion between tenpin bowling operators, tenpin bowling was still the most popular second choice activity in response to the forced diversion question.

43. Accordingly, the CMA does not consider that the survey provides clear evidence that the product frame of reference should be widened to include alternative leisure activities, particularly cinemas.

Similarity of characteristics

44. TOBC submitted an internal document [✄].[5]

45. However, other internal documents supplied by the Parties suggest [✄].[6] This shows that tenpin bowling has different attributes compared to most other leisure activities, and that these activities might not be substitutable for at least some customers.

Monitoring and benchmarking

46. TOBC submitted that the Parties compare their performance and pricing against leisure sector players other than tenpin bowling operators, in particular cinemas, indicating that other leisure activities provide a meaningful constraint on the Parties.

47. The CMA considers that evidence from the Parties' internal documents and third parties suggests that other tenpin bowling operators are the most significant constraint on the Parties' activities, and does not clearly indicate that cinemas are a sufficiently close constraint to be included in the product frame of reference. In particular, the CMA notes that:

    (a) A TOBC internal document considers its performance in the tenpin bowling sector, [✄];[7]

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[5] [✄]
[6] [✄]
[7] [✄]

(b) The findings from [✂][8] reported in another TOBC internal document note that '[✂]';[9]

(c) An internal document providing [✂];

(d) Third party tenpin bowling operators confirmed that they view tenpin bowling operators as their main competitors and that they primarily benchmark against other tenpin bowling operators.

Impact of leisure centre/tenpin bowling exit or entry

48. TOBC submitted that the opening of leisure centres can have an impact on tenpin bowling operators' business, citing two examples of where revenues had declined following new cinema and leisure centre entry.

49. TOBC provided the CMA with a list of openings and closures of cinemas and bowling centres in the last three years. Third parties provided additional examples of entry and exit. TOBC also provided data on the Parties' revenues per site from May 2012 to April 2015. The CMA used this information to assess whether any association between tenpin bowling competitors' openings or closures and revenues could be observed more generally across sites, and if a similar relationship could also be observed in the event of entry or exit of cinemas.[10]

50. In general, the CMA did not find an association between the entry or exit of cinemas and the Parties' revenues. However, the CMA found that the exit of tenpin bowling centres located within a 15 minute drive-time of their sites is associated with higher revenues. No other statistically significant effect was found in relation to the entry or exit of tenpin bowling centres.

51. The CMA recognises that this analysis does not control for all possible factors and therefore this result should not be interpreted as conclusive evidence that cinemas do not compete with tenpin bowling centres. However, it is consistent with the internal documents discussed in paragraph 47 above.

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[8] [✂]
[9] [✂]
[10] The CMA carried out a regression analysis of revenues on entry and exit controlling for the following factors: (i) factors that affected all sites within the time period (by using a fixed effects specification); (ii) trends in revenues (by using dummy variables for each month); and (iii) other site-specific events, [✂] (which were entered as separate control variables). The CMA collated 28 instances of cinemas entry, 12 instances of tenpin bowling centre entry, six instances of cinema exit, and 12 instances of tenpin bowling centre exit between May 2012 and April 2015. Data on revenues was collated on a monthly basis.

52. The CMA also notes some third party responses which indicate that tenpin bowling competitors experience lower revenues when a tenpin bowling alley entered nearby.

53. TOBC also submitted that its sites react to the opening of a new cinema (or other leisure activities) in the same way as they react to the opening a new tenpin bowling alley. TOBC provided the CMA with some examples of [✄].

54. The evidence from TOBC's internal documents regarding the response to cinema/other leisure entry is unclear [✄].

55. On the other hand, one of TOBC's internal documents shows a strong defensive reaction to the potential opening of competitor tenpin bowling site. [✄]: '[✄]'[11]

Conclusion on product scope

56. The CMA has assessed the Merger against a product frame of reference for the supply of tenpin bowling facilities, which includes both national branded operators and independent/boutique operators. This is because the evidence indicates that tenpin bowling centres compete more strongly against each other than they compete with other leisure activities, in particular cinemas. However, in its competitive assessment, the CMA has put some weight on the survey results in terms of the diversion ratios between the Parties and other tenpin bowling operators and the Parties' incentive to increase prices as a result of this, which incorporate the effect of constraints from outside the frame of reference (although this effect is probably overstated).

Geographic scope

57. Based on evidence provided by TOBC and third parties in relation to the importance of location on customer choice and on price setting, the CMA has considered the effects of the Merger on a local basis. In accordance with its usual practice, the CMA considers that drive-time catchment areas around each of the Parties' sites within which 80% of the customers of that site are located is an appropriate geographic frame of reference.

58. TOBC provided relevant drive-times for seven TOBC and Bowlplex sites.[12] For those areas for which the CMA has no information, the CMA used a catchment area based on 25 minute drive-times around the Parties' site and

[11] [✄]
[12] Namely: Birmingham, Bracknell/Camberley, Bristol, Cardiff, Castleford/Leeds, Dudley and Glasgow.

expanded these isochrones to up to 40 minutes in order to test the sensitivity of the results to the chosen drive-time.

Conclusion on frame of reference

59. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of tenpin bowling facilities at a local level.

Competitive assessment

Horizontal unilateral effects

60. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and without needing to coordinate with its rivals.[13] Horizontal unilateral effects are more likely when the merger parties are close competitors.

61. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in a SLC in relation to unilateral horizontal effects in the supply of tenpin bowling in the local areas where the Parties' catchment areas overlap.

Identification of local overlaps

62. In terms of identifying relevant overlaps in the context of the geographic frame of reference, TOBC identified the following overlaps based on a proposed 25 minute drive-time (reflecting the 'average' 80% catchment area of TOBC's sites):

    (a) Birmingham (Bowlplex Birmingham, TOBC Birmingham);

    (b) Bracknell (Bowlplex Camberley, TOBC Bracknell);

    (c) Bristol (Bowlplex Bristol, TOBC Avonmeads and TOBC Cribbs Causeway);

    (d) Cardiff (Bowlplex Nantgarw and TOBC Cardiff);

    (e) Dudley (Bowlplex Dudley and TOBC Bentley Bridge); and

    (f) Glasgow (Bowlplex Glasgow and TOBC Springfield Quay).

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[13] *Merger Assessment Guidelines*, from paragraph 5.4.1.

63. The Parties identified one additional overlap in relation to Bowlplex Castleford and TOBC Leeds (**Leeds**) when expanding the catchment area to a 30 minute drive-time.

64. However, the size of the catchment areas on a site by site basis can be considerably different from the 25 minute drive-time catchment area proposed by the Parties, which is an average of the catchment areas for all sites. The CMA was therefore concerned that, in areas where the catchment area departs substantially from the average, a 25 minute drive-time catchment area would not properly capture the competitive dynamic in the area. For this reason, the CMA has taken account of each site's own catchment area when assessing competitive effects at the local level.

65. The CMA also examined areas where the Parties are located between 25 and 40 minutes from each other.[14] The Merger could potentially give rise to a SLC in such areas if the Parties' customers are willing to travel over longer distances compared to other areas and/or if the Parties draw a large share of their customers from a population centre located between them. The CMA identified nine additional overlaps on this basis, corresponding to the locations of the ten remaining Bowlplex sites, namely:[15]

(a) Basingstoke (Bowlplex Basingstoke, TOBC Bracknell and TOBC Eastleigh);

(b) Blackburn (Bowlplex Blackburn, TOBC Bolton and Bury);

(c) Brighton (Bowlplex Brighton, TOBC Worthing and TOBC Crawley);

(d) Cwmbran (Bowlplex Cwmbran, TOBC Cardiff);

(e) Dunfermline (Bowlplex Dunfermline, TOBC Stirling);

(f) Oxford (Bowlplex Oxford, TOBC High Wycombe);

(g) Poole (Bowlplex Branksome, Bowlplex Tower Park and TOBC Eastleigh);

(h) Portsmouth (Bowlplex Portsmouth, TOBC Eastleigh); and

[14] The largest catchment area observed for sites for which the CMA has data is 40 minutes.

[15] The CMA notes that the drive-times reported by the Parties have been calculated using a different software, such that the drive-time catchment areas used by the CMA are typically larger than those constructed by the Parties. This means that, on some occasions, the relevant Bowlplex or TOBC site will not actually be present within the corresponding TOBC/Bowlplex drive-time catchment area on the basis of the Parties' catchment areas but will be so using the CMA's. This is relevant to the Bracknell, Dudley and Leeds overlaps. The CMA notes however that, although the sites of the Parties may not be present in the one or the others' drive-time catchment area, the drive-time catchment areas and therefore the customer populations they represent still overlap. For consistency the CMA has used its drive-time catchment areas but noted where any sites do not directly overlap as a result of this based on TOBC's submissions for the purposes of its competitive assessment.

(i) Tunbridge Wells (Bowlplex Tunbridge Wells, TOBC Maidstone).

Framework of assessment

66. The CMA has used the following framework to assess each overlap.

67. First, the CMA assessed how closely the Parties currently compete, using the following evidence where available:

(a) Survey evidence on diversion to other tenpin bowling operators: The CMA has used the survey evidence provided by the Parties to calculate diversion ratios.[16] However, as noted above, the CMA considers that diversion to tenpin bowling operators (including the Parties) may be understated. The CMA also notes that this evidence was not available for the additional overlap areas that were identified by the CMA.

(b) Size of the catchment area overlap: If the overlap between the Parties' catchment areas is small, or covers an area with a very small population density, the CMA has considered that the pre-Merger constraint between the Parties may be lower.

(c) Customer location: Where available, the CMA has considered maps plotting the home addresses of the Parties' customers.[17] In analysing customer location, TOBC submitted that significant competitive interaction between the Parties should only be expected where the location of their customer bases overlap to a significant extent. TOBC sought to quantify the extent of this overlap further by estimating the proportion of customers who originated from the same Office for National Statistics census output areas. However, the CMA considers that there might be substantial competitive interaction between the Parties where they draw customers from areas that are closely *adjacent* even if they do not overlap. This is because in such areas the customers close to the 'boundary' between the Parties' catchment areas may be marginal and may credibly respond to a price increase from one party by diverting to the other party.

68. Secondly, for those overlaps where survey data was available, the CMA estimated the Parties' incentives to increase prices following the Merger as a

[16] Diversion ratios provide an estimate of the proportion of a firm's business that is lost by that firm, which would divert to a specified alternative in the event that the firm raised prices or was unavailable and therefore provides an indication of the extent to which two firms are competing. In calculating these diversion ratios, the CMA has allocated responses from customers who indicated that they would have gone bowling somewhere else in response to the forced diversion question but when asked where answered 'don't know', in proportion to the rest of the responses to this follow-up to the forced diversion question. The CMA has also excluded own party diversion from this analysis.
[17] Where the CMA did not have access to customer location information, it has used the roads in each area as a proxy of population density.

result of the internalisation of 'lost' profit, estimated quantitatively through a combination of diversion ratios and the Parties' variable profit margins (**GUPPI analysis**). The CMA's concern is greater where the increase in the incentive to raise prices brought about by the Merger, as indicated by the GUPPI analysis, is greater.

69. TOBC submitted that GUPPI was not an appropriate metric to assess the risk of price increases in this case on the basis that, with variable margins of around [✂]%, a GUPPI of over 10% would be triggered by a symmetric 8-to-7 merger, which would not ordinarily be regarded as raising any competition concerns. TOBC also pointed out that pricing was set by reference to non-bowling competition, and that, given this wider market constraint, bowling-specific cost pass-through was likely to be very low (that is, bowling operators are unlikely to adjust prices in response to changes in costs and/or changes in bowling competition). In support of this argument, TOBC submitted that there was only a weak relationship between the average price per game charged by different bowling centres and their variable costs.

70. The CMA has the following comments on these arguments:

(a) First, high variable margins imply that threshold GUPPIs can be triggered with relatively low diversion ratios, but there is no evidence to indicate that this is not reflective of the Parties' pricing incentives. High variable margins increase the value of 'diverted sales' (the sales lost by one party to the other in case of a price increase), which is likely to make a price increase profitable post-merger.

(b) Second, as noted above, the CMA considers that the evidence regarding tenpin bowling being constrained by other leisure activities is limited. In this context, even assuming that, empirically, the relationship between variable costs and price-per-game is relatively weak, this would not be sufficient to mitigate this concern as it does not cover all the parameters of competition (eg the price of drinks and food, or the quality of the premises). For these reasons, the CMA believes that in this context GUPPI is a meaningful indicator of the incentives to raise price.

71. Third, the CMA assessed the strength of the competition that would remain post-Merger, using the following evidence:

(a) Fascia count: the CMA assessed the number of other tenpin bowling competitors in the Bowlplex and TOBC catchment areas.

(b) Each fascia was then assessed on the following factors:

(i) Proximity of the fascia to the Parties' sites, reflecting customer's preference for proximity;

(ii) The extent to which each fascia offers a similar proposition and has a similar number of lanes, noting that national branded operators appear to compete more closely;

(iii) The level of diversion to each fascia.

72. Fourth, the CMA has assessed whether entry in those areas where competition concerns have been identified may counteract those competition concerns. Evidence on the timely, likely and sufficient nature of any new entry is discussed on a site-by-site basis to the extent relevant.

Local assessment

SLC overlaps

73. Evidence on customer location, precise drive-time catchment areas and results from the survey was available to the CMA for all of these sites.

- *Bristol*

74. Bowlplex Bristol is located 10 minutes from TOBC Avonmeads and 19 minutes from TOBC Cribbs Causeway. These sites have an 80% catchment area of 41, 20 and 41 minutes' drive-time, respectively.

75. The evidence available indicates that the Parties are competing closely:

(a) Customer location suggests that the Parties draw a substantial proportion of their customers from areas that overlap or are closely adjacent.

(b) Diversion ratios between TOBC to Bowlplex and Bowlplex to TOBC are [30–40]% and [30–40]% respectively.

76. GUPPI percentages (Bowlplex – 20%, TOBC – 29%) indicate a significant incentive to raise prices post-Merger.

77. The evidence available also indicates that the competition that would remain post-Merger would not be sufficient to prevent a SLC:

(a) There is a reduction of four to three tenpin bowling operator fascia within 41 minutes of Bowlplex, three to two within 20 minutes of TOBC Avonmeads and five to four within 41 minutes of TOBC Cribbs Causeway.

(b) The nearest operator, Bloomsbury is an independent competitor, which is unlikely to pose a significant constraint given evidence from third parties on its different service focus and capacity (five lanes).

(c) The Essenden sites at Gloucester and Swindon are located much further away than the Parties' own sites.

(d) Diversion to Essenden and Bloomsbury is more limited, with [5–10]% diversion to Bloomsbury from TOBC Avonmeads and [0–5]% to Essenden Swindon from Bowlplex Bristol. There is no evidence of diversion to other operators within the frame of reference.

78. Therefore, on the basis of the evidence available, the CMA considers that there is a realistic prospect of a SLC in relation to this overlap.

- *Bracknell*

79. Bowlplex Camberley overlaps with TOBC Bracknell which is located 16 minutes to the north. These sites have an 80% catchment area of 24 and 23 minutes' drive-time, respectively.

80. While the Parties do not appear to draw a substantial proportion of customers from the same area, diversion ratios between the Parties' sites indicate that they compete closely:

(a) Diversion from TOBC to Bowlplex is [10–20]%.

(b) Diversion from Bowlplex to TOBC is [10–20]%.

81. GUPPI calculations for both Bowlplex (7%) and TOBC (15%) indicate a significant incentive to increase prices post-Merger.

82. The evidence available also indicates that the competition that would remain post-Merger would not be sufficient to prevent an SLC:

(a) There is a reduction of five to four tenpin bowling operator fascia within 25 minutes of Bowlplex Camberley. There is no reduction in fascia within 23 minutes of TOBC Bracknell with four alternative tenpin bowling fascia present.

(b) One of these fascia is a very small (six lanes) independent operator with a more limited ancillary offering than the Parties.

(c) Big Apple Wokingham (a national branded operator) is the closest comparable competitor in terms of capacity (12 lanes) and offering to the Parties' locations. While diversion from TOBC to Big Apple Wokingham is comparable ([10–20]%) relative to that to Bowlplex, it is much lower from Bowlplex to Big Apple ([5–10]%) than to TOBC.

(d) Although there is also some diversion to Farnborough Bowl from Bowlplex ([10–20]%), there is none from TOBC, it is much smaller in terms of capacity (only ten lanes), appears to have a less extensive offering in terms of ancillary services than the Parties, and is relatively distant compared to the Parties' own sites.

(e) Diversion to other tenpin bowling operators is minimal and much lower than that between the Parties.

83. Therefore, on the basis of the evidence available, the CMA considers that there is a realistic prospect of a SLC in relation to this overlap.

- *Cardiff*

84. Bowlplex Nantgarw overlaps with TOBC Cardiff, which is located 19 minutes' drive-time away. Both sites have a similar 80% catchment area (33 minutes' drive-time).

85. The evidence available indicates that the Parties are competing closely:

(a) Customer location shows that the Parties draw a substantial proportion of their customers from the same or closely adjacent areas.

(b) Diversion ratios between TOBC to Bowlplex and Bowlplex to TOBC are [10–20]% and [20–30]% respectively.

86. GUPPI calculations for both Bowlplex (16%) and TOBC (10%) indicate a significant incentive to increase prices post-Merger.

87. The evidence available also indicates that the competition that would remain post-Merger would not be sufficient to prevent a SLC:

(a) There is a reduction of four to three tenpin bowling operator fascia within 33 minutes of Bowlplex and TOBC as a result of the Merger, even including QLP's public plans to open a new site in Methyr, 18 minutes away from Bowlplex, in October 2015.

(b) Diversion to QLP (Cardiff Superbowl), which is located 17 minutes away from Bowlplex, but in the vicinity of TOBC, is much smaller than that between the Parties ([0–5]% from TOBC and [5–10]% from Bowlplex), even allowing for some understatement and the fact that Cardiff Superbowl has not been open as long.

(c) Diversion to other tenpin bowling operators within the frame of reference is minimal compared to that between the Parties, with only [0–5]% from TOBC Cardiff to the Rhonda Bowl, which is an independent operator with comparatively fewer lanes (14) and more distant relative to the Parties.

88. Therefore, on the basis of the evidence available, the CMA considers that there is a realistic prospect of a SLC in relation to this overlap.

- *Dudley*

89. Bowlplex Dudley overlaps with TOBC Bentley Bridge, which is located 18 minutes away. These sites have an 80% catchment area of 18 and 20 minutes' drive-time, respectively.

90. The evidence available indicates that the Parties are competing closely:

(a) Although the Parties appear to draw most of their customers from different areas, some of these areas are closely adjacent and, as such, a substantial proportion of the customers could be marginal between the Parties (ie these customers could credibly respond to a price increase by one party by going to the other party).

(b) Diversions from TOBC to Bowlplex and Bowlplex to TOBC are [10–20]% and [10–20]% respectively.

91. GUPPI calculations for both Bowlplex (10%) and TOBC (7%) indicate a significant incentive to increase prices post-Merger.

92. The evidence available also indicates that the competition that would remain post-Merger would not be sufficient to prevent an SLC:

(a) The reduction of tenpin bowling operator fascia within 20 minutes of TOBC is three to two. There is no fascia reduction within 18 minutes of Bowlplex as a result of the Merger, with no alternative fascia present as the closest competitor to Bowlplex, an independent, appears to no longer be open.

(b) The MFA and Essenden offerings, which have comparable service offerings and number of lanes, are located further away than the Parties' own sites and the Essenden site in Star City is outside the frame of reference.

(c) In addition, diversion to MFA and Essenden is lower than that between the Parties:

(i) MFA Bloxwich – [0–5]% from Bowlplex and [0–5]% from TOBC.

(ii) Essenden Star City – [5–10]% from Bowlplex and [10–20]% from TOBC.

93. Therefore, on the basis of the evidence available, the CMA considers that there is a realistic prospect of a SLC in relation to this overlap.

- *Leeds*

94. Bowlplex Castleford overlaps with TOBC Leeds, which is located 22 minutes away. These sites have an 80% catchment area of 32 and 22 minutes' drive-time, respectively.

95. The evidence available indicates that the Parties are competing closely:

(a) Although the Parties appear to draw most of their customers from different areas, some of these areas are closely adjacent and, as such, a substantial proportion of the customers could be marginal between the Parties (ie these customers could credibly respond to a price increase by one party by going to the other party).

(b) Diversions from TOBC to Bowlplex and Bowlplex to TOBC are [10–20]%.

96. GUPPI calculations for both Bowlplex (10%) and TOBC (9%) indicate a significant incentive to increase prices post-Merger.

97. The evidence available also indicates that the competition that would remain post-Merger would not be sufficient to prevent a SLC:

(a) Although the reduction of tenpin bowling operator fascia within 32 minutes of Bowlplex as a result of the Merger is ten to nine and there is no reduction within 22 minutes of TOBC with 6 alternative fascia, four of the operators in the Bowlplex catchment area appear to be smaller independent/boutique operators with a different customer focus, fewer lanes and more distant locations relative to the Parties.[18]

(b) To the extent that any diversion to these operators is recorded, this is minimal and much lower than between the Parties.

(c) In particular, diversion to MFA and Essenden York, which have comparable service offerings and number of lanes, is much lower than that between the Parties:

[18] Kingpin Doncaster (17 min from Bowlplex, 8 lanes), Roxy Lanes Leeds (19 min, 4 lanes), Selby Superbowl (20 min, 12 lanes), Barnsley Bowl (28 mins, 16 lanes), Metrodome (28 mins, 8 lanes).

(i) MFA Leeds – [0–5]% from Bowlplex and [5–10]% from TOBC.

(ii) Tenpin York – [5–10]% from Bowlplex and [0–5]% from TOBC.

98. Therefore, on the basis of the evidence available, the CMA considers that there is a realistic prospect of a SLC in relation to this overlap.

- *Glasgow*

99. Bowlplex Braehead overlaps with TOBC's Glasgow Springfield Quay Hollywood Bowl site, which is located 9 minutes away. These sites have an 80% catchment area of 35 and 20 minutes' drive-time, respectively.

100. The evidence available indicates that the Parties are competing closely:

(a) Customer location suggests that the Parties draw a substantial proportion of their customers from the same or closely adjacent areas, in particular the area within TOBC Glasgow Springfield Quay's catchment.

(b) Diversion ratios both from TOBC to Bowlplex and Bowlplex to TOBC are [30–40]% and [20–30]%, respectively.

101. GUPPI calculations at 17% for Bowlplex and 24% for TOBC indicate a significant incentive to increase prices post-Merger.

102. The evidence available also indicates that the competitive constraint on the Parties from other competitors is substantially weaker than that between the Parties:

(a) There is a reduction of four to three tenpin bowling operator fascia within 25 minutes of Bowlplex and three to two within 20 minutes of TOBC, with all the remaining operators being independents.

(b) Although the two remaining independent operators in the frame of reference (Cosmic Bowl and Pro Bowl in Kirkintilloch) appear to have a relatively comparable offering with 16 lanes each and similar customer focus, their constraint appears limited as:

(i) They are geographically more distant relative to the Parties;

(ii) There is minimal diversion to them ([0-5]% to Cosmic Bowl from TOBC Springfield Quays).

(c) Diversion to other competitors outside of the frame of reference is minimal compared to that between the Parties.

103. Therefore, on the basis of the evidence available, the CMA considers that there is a realistic prospect of a SLC in relation to this overlap.

No SLC overlaps

104. In the remaining areas where the Parties' sites overlap (Basingstoke, Birmingham, Blackburn, Brighton, Cwmbran, Dunfermline, Oxford, Poole, Portsmouth and Tunbridge Wells) the CMA used the same framework identified above for its assessment. However, as noted above, the CMA did not have precise drive-time catchment areas,[19] evidence on diversion ratios,[20] or precise customer location information[21] for some of these overlaps.

- *Basingstoke*

105. A 25 minute drive-time catchment area around Bowlplex Basingstoke overlaps with a 25 minute drive-time catchment areas around TOBC Bracknell (located 33 minutes to the north) and TOBC Eastleigh (located 34 minutes to the south). The TOBC sites are only present in the Bowlplex catchment area on a 40 minute drive-time catchment area.

106. In the case of the overlap with TOBC Bracknell, the evidence available on customer location indicates that the Parties are not competing closely. The location of these customers shows that each site draws a substantial proportion of their customers from separate and not closely adjacent areas, rather than competing for customers located between the sites.

107. There is evidence that there will be sufficient competitive constraint remaining post-Merger in this context. On the basis of a conservative 25 minute catchment area there are no other fascia in the Bowlplex Basingstoke catchment area, five in the TOBC Bracknell area and two in the TOBC Eastleigh area, with no reduction as a result of the Merger. However, there are other tenpin bowling competitors in the Bowlplex Basingstoke catchment area which are located within a similar drive-time to TOBC Bracknell. These other competitors include two MFA sites (a national branded competitor of similar size to TOBC) and a Big Apple site (also a national branded competitor).

108. Regarding the overlap with TOBC Eastleigh, Essenden (Tenpin Southampton), is located 39 minutes to the south of Bowlplex Basingstoke but only 17 minutes from TOBC Eastleigh. Given customers' preference for

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[19] Basingstoke, Blackburn, Brighton, Cwmbran, Dunfermline, Oxford, Poole, Portsmouth, Tunbridge Wells.
[20] Basingstoke, Blackburn, Brighton, Cwmbran, Dunfermline, Oxford, Poole, Portsmouth, Tunbridge Wells.
[21] Blackburn, Dunfermline, Oxford, Poole, Portsmouth.

proximity and the similarity in offering between the Parties' and Essenden's sites, the CMA considers that TOBC Eastleigh may be constrained more strongly by Tenpin Southampton (a large branded tenpin bowling operator) than by Bowlplex Basingstoke.

109. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Birmingham*

110. Bowlplex Birmingham is located 19 minutes away from TOBC Birmingham. These sites have an 80% catchment area of 25 minutes and 16 minutes' drive-time, respectively.

111. The evidence available indicates that the Parties are not competing closely. In particular:

(a) Although the overlap in the catchment areas is relatively large, information on customer location demonstrates that the Parties are not drawing their customers from overlapping or closely adjacent areas.

(b) Diversion ratios from Bowlplex Birmingham to TOBC Birmingham and TOBC Birmingham to Bowlplex Birmingham are only [5–10]% and [0–5]% respectively.

112. In this context, GUPPI calculations at 5% for each of Bowlplex and TOBC do not indicate a significant incentive to increase prices post-Merger.

113. The evidence available also indicates that there will be sufficient competitive constraint on the merged entity post-Merger:

(a) There are three competitors located within a 15 minute drive-time of Bowlplex Birmingham: PSL Stirchley, an independent with 18 lanes, Essenden at Star City and Acock's Green Bowl, another independent with 20 lanes.

(b) Diversion to the Essenden offering from the Bowlplex site is [10–20]%, which is much higher than the diversion to the TOBC site. There is also evidence of diversion to PSL Stirchley from Bowlplex Birmingham ([0–5]%) and TOBC Birmingham ([5–10]%), which although independent appears to have a comparable offering in terms of lanes and ancillary proposition.

114. Therefore, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Blackburn*

115. A 25 minute drive-time catchment area around Bowlplex Blackburn overlaps with one around TOBC Bolton (26 minutes to the south) and Bury (27 minutes to the south).

116. Although the catchment area overlap on a 25 minute drive-time basis is relatively large, other competitors appear to be competing more closely with each of the sites. On a conservative 25 minute drive-time catchment area there is one other competitor in the Bowlplex Blackburn catchment area (with no reduction as a result of the Merger), a reduction from four to three in respect of TOBC Bolton and a reduction of five to four in respect of TOBC Bury. However, there are significant national branded competitors located more closely relative to the Parties' sites than the Parties' themselves, including two MFA sites nearer to Bowlplex than the TOBC sites.

117. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Brighton*

118. A 25 minute drive-time catchment area around Bowlplex Brighton overlaps with one around TOBC Worthing (33 minutes to the west) and TOBC Crawley (36 minutes to the north).

119. Evidence available on customer location indicates that the Parties do not compete closely in this area. The location of these customers shows that each site draws a substantial proportion of their customers from separate and not closely adjacent areas, rather than competing for customers located between the sites.

120. Although on a conservative 25 minute drive-time catchment area there are no alternative fascia remaining in the Bowlplex catchment area and only one in each of the TOBC areas (Big Apple (a national branded operator) and a smaller independent operator with 12 lanes), the location of these competitors relative to the Parties' in the context of the evidence regarding limited pre-Merger competition between the Parties suggests there is sufficient remaining constraint post-Merger in respect of this overlap.

121. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Cwmbran*

122. A 25 minute drive-time catchment area of Bowlplex Cwmbran overlaps with the 33 minute drive-time catchment area of TOBC Cardiff, which is located 29 minutes to the south west of Bowlplex Cwmbran.

123. Evidence available on the location of TOBC Cardiff's customers indicates that the Parties' do not compete closely as TOBC Cardiff does not take a substantial proportion of customers from the area where Bowlplex Cwmbran is located.

124. On a conservative 25 minute drive-time catchment area there are no other competitors in Bowlplex's catchment area. There is one competitor in TOBC Cardiff's catchment area, a QLP Superbowl site, which is located 5 minutes away. The location of this competitor relative to the Parties' in the context of the evidence regarding limited competition between the Parties suggests there is sufficient remaining constraint post-Merger in respect of this overlap.

125. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Dunfermline*

126. A 25 minute drive-time catchment area around Bowlplex Dunfermline overlaps to a limited extent with one around TOBC Stirling (42 minutes to the west).

127. The locality of the sites suggests that sites are not competing closely in that they are very distant and there does not appear to be a large population centre between the Parties.

128. In addition, although there are no other competitors within a conservative 25 minute drive-time catchment area from each site, there is a competitor (an Essenden site with a comparable offering) nearer to Bowlplex at 33 minutes' drive-time. This suggests that in the context of limited pre-Merger competition between the Parties, there is sufficient competition remaining post-Merger.

129. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Oxford*

130. A 25 minute drive-time catchment area around Bowlplex Oxford overlaps with one around TOBC High Wycombe, which is located 34 minutes to the east.

131. The locality of the sites suggests that sites are not competing closely in that they are very distant and there does not appear to be a large population centre between the Parties. Indeed, on a conservative 25 minute drive-time catchment area, the overlap between these sites is very small. In addition, the Parties are not each other's closest competitors geographically, as there is an Essenden and an independent (with 18 lanes) within 25 minutes of TOBC High Wycombe and an MFA within 33 minutes of Bowlplex Oxford.

132. On a conservative 25 minute catchment area there are no alternative fascia in the Bowlplex catchment area and only two within 25 minutes of TOBC High Wycombe (an Essenden and a smaller (14 lanes) independent. However, the Essenden, with a comparative offering to the Parties, is located much closer to TOBC than Bowlplex, such that in the context of the evidence regarding pre-Merger competition between the Parties, there appears to be sufficient competition remaining post-Merger.

133. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Poole*

134. A 25 minute drive-time catchment area around Bowlplex Branksome and Bowlplex Tower Park in Poole overlaps with one around TOBC Eastleigh. Bowlplex Branksome and Bowlplex Tower Park are located 42 and 47 minutes to the east of TOBC Eastleigh respectively.

135. The locality of the sites suggests that the Bowlplex and TOBC sites are not competing closely in that they are very distant and there is no large population centre between the Parties as they are located on either side of the New Forest. Indeed, on a conservative 25 minute drive-time catchment area, the overlap between these sites is very small. In addition, the Parties are not each other's closest competitors geographically, as there is an Essenden in Southampton much closer to TOBC Eastleigh.

136. Although, on a conservative 25 minute catchment area there are no alternative fascia in the Bowlplex catchment area and only one (Essenden) within 25 minutes of TOBC High Wycombe), in the context of the evidence regarding pre-Merger competition between the Parties, there appears to be sufficient competition remaining post-Merger.

137. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Portsmouth*

138. A 25 minute drive-time catchment area around the Bowlplex in Portsmouth (Gunwharf Quays) overlaps with one around TOBC Eastleigh, which is located 27 minutes to the west.

139. Although the catchment area overlap on a 25 minute drive-time basis is relatively large, other competitors appear to be competing more closely with each of the sites. An Essenden site is located only 15 minutes away from TOBC Eastleigh (to the west of the Bowlplex site) and there is an MFA site 22 minutes away from Bowlplex Portsmouth to the east. Both are competitors with a similar number of lanes and target similar customers such that in the context of the evidence regarding pre-Merger competition between the Parties, there appears to be sufficient competition remaining post-Merger.

140. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

- *Tunbridge Wells*

141. A 25 minute drive-time catchment area around Bowlplex Tunbridge Wells overlaps with one around TOBC Maidstone, located 29 minutes to the north east.

142. Evidence available on customer location indicates that the Parties do not compete closely in this area. The location of these customers shows that each site draws a substantial proportion of their customers from separate and not closely adjacent areas, rather than competing for customers located between the sites.

143. Although on a conservative 25 minute drive-time catchment area there are no alternative fascia in the Bowlplex catchment area and only one in the TOBC Eastleigh areas (MFA, 22 minute drive-time away), the location of these competitors relative to the Parties' customers in the context of the evidence regarding limited pre-Merger competition between the Parties suggests there is sufficient remaining constraint post-Merger in respect of this overlap.

144. Therefore, on the basis of the evidence available, the CMA considers that there is no realistic prospect of a SLC in relation to this overlap.

Conclusion on horizontal unilateral effects

145. As set out above, the CMA considers that the Parties are competing closely and there is insufficient constraint remaining post-Merger in relation to the Bristol, Bracknell, Cardiff, Dudley, Leeds and Glasgow overlap areas.

Accordingly, the CMA believes the Merger raises significant competition concerns as a result of horizontal unilateral effects in relation to the supply of tenpin bowling in the local areas of Bristol, Bracknell, Cardiff, Dudley, Leeds and Glasgow.

Barriers to entry and expansion

146. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent a SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.[22]

147. The CMA has considered any evidence regarding entry and expansion in its competitive assessment above. As indicated above, the CMA has received no evidence that entry would sufficiently likely, timely and sufficient to mitigate any of the concerns arising above.

Third party views

148. The CMA contacted competitors of the Parties and cinema operators. Some competitors raised concerns regarding the Merger primarily relating to the loss of competition at the local level. One competitor considered that the Merger might be positive as consolidation was necessary for the industry's long-term survival. The one cinema operator that responded to the CMA's market testing indicated that cinemas and tenpin bowling alleys were largely complementary.

149. Third party comments have been taken into account where appropriate in the competitive assessment above.

Conclusion on substantial lessening of competition

150. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger may be expected to result in a substantial lessening of competition as a result of horizontal unilateral effects in relation to the Bristol, Bracknell, Cardiff, Dudley, Leeds and Glasgow overlap areas.

[22] *Merger Assessment Guidelines*, from paragraph 5.8.1.

Decision

151. Consequently, the CMA believes that it is or may be the case that the Merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

152. The CMA therefore considers that it is under a duty to refer under section 33(1) of the Act. However, the duty to refer is not exercised pursuant to section 33(3)(b) whilst the CMA is considering whether to accept undertakings under section 73 of the Act in lieu of a reference. Pursuant to section 73A(1) of the Act, the Parties have until 24 August 2015 to offer an undertaking to the CMA that might be accepted by the CMA under section 73(2) of the Act. If the Parties do not offer an undertaking by this date, if the Parties indicate before this date that they do not wish to offer an undertaking, or if, pursuant to section 73A(2) of the Act, the CMA decides by 1 September 2015 that there are no reasonable grounds for believing that it might accept the undertaking offered by the Parties, or a modified version of it, then the CMA will refer the Merger for a phase 2 investigation pursuant to sections 33(1) and 34ZA(2) of the Act.

Sheldon Mills
Senior Director, Mergers
Competition and Markets Authority
17 August 2015